

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**Adrian McGee, Adm. Est. of LeDarren Mixon**,

**Plaintiff,**

v.

**City of Whitehall, et. al.**,

**Defendant.**

Civil Action 2:19\_\_\_\_\_-cv- 379  
Judge Marbley  
Magistrate Judge Vascura

**RULE 26(f) REPORT**

Pursuant to Federal Rule of Civil Procedure 26(f), a meeting was held on March 22, 2019  
\_\_\_\_\_ and  
was attended by:

Marcus Sidoti, counsel for plaintiff(s) Adriann McGee, Adm. Est. of  
LeDarren Mixon \_\_\_\_\_,

\_\_\_\_\_, counsel for plaintiff(s) \_\_\_\_\_,

Andrew Yosowitz, counsel for defendant(s) Gary A. Baker, Jr., Ronald  
Casto and City of Whitehall, Ohio \_\_\_\_\_,

Michael Loughry, counsel for defendant(s) Joseph A. Danzey and City of  
Reynoldsburg, Ohio \_\_\_\_\_,

Counsel represent that, during the meeting, they engaged in a meaningful attempt to meet and  
confer on the matters outlined below.

1. **CONSENT TO MAGISTRATE JUDGE**

Do the parties consent to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c)?

\_\_\_\_ Yes      xxx\_\_ No

2. INITIAL DISCLOSURES

Have the parties agreed to make initial disclosures?

xxx Yes      \_\_\_\_\_ No      \_\_\_\_\_ The proceeding is exempt under Rule 26(a)(1)(B)

If yes, such initial disclosures shall be made by April 16, 2019\_\_\_\_\_.

3. VENUE AND JURISDICTION

Are there any contested issues related to venue or jurisdiction?

\_\_\_\_\_ Yes      xxx\_\_ No

If yes, describe the issue:

If yes, the parties agree that any motion related to venue or jurisdiction shall be filed by \_\_\_\_\_.

4. PARTIES AND PLEADINGS

- a. The parties agree that any motion or stipulation to amend the pleadings or to join additional parties shall be filed by May 31, 2019\_\_\_\_\_.
- b. If the case is a class action, the parties agree that the motion for class certification shall be filed by\_\_\_\_\_.

5. MOTIONS

- a. Are there any pending motion(s)?

\_\_\_\_\_ Yes      xxx\_\_ No

If yes, indicate which party filed the motion(s), and identify the motion(s) by name and docket number:

- b. Are the parties requesting expedited briefing on the pending motion(s)?

\_\_\_\_\_ Yes      \_\_\_\_\_ No

If yes, identify the proposed expedited schedule:

Opposition to be filed by\_\_\_\_\_; Reply brief to be filed by\_\_\_\_\_.

6. ISSUES

Jointly provide a brief description of case, including causes of action set forth in the complaint, and indicate whether there is a jury demand: **Plaintiff alleges that the named officers used excessive force against LeDarren Mixon during the execution of a search warrant. Plaintiff asserts a Fourth Amendment excessive force claim against the named officers, a supervisory liability claim, a *Monell* claim against the City defendants as well as a state law claim for wrongful death against all Defendants. Defendants deny liability and assert both qualified and statutory immunity. There is a jury demand.**

7. DISCOVERY PROCEDURES

- a. The parties agree that all discovery shall be completed by January 31, 2020. The parties to schedule their discovery in such a way as to require all responses to discovery to be served prior to the cut-off date, and to file any motions relating to discovery within the discovery period unless it is impossible or impractical to do so. If the parties are unable to reach an agreement on any matter related to discovery, they are directed to arrange a conference with the Court. To initiate a telephone conference, counsel are directed to join together on one line and then call the Magistrate Judge's chambers or provide the Court with a call -in number.

- b. Do the parties anticipate the production of ESI? \_\_\_\_\_ Yes \_\_\_\_\_ xxx No

If yes, describe the protocol for such production:

- c. Do the parties intend to seek a protective order or clawback agreement? **Not at this time.**

If yes, such order or agreement shall be produced to the Court by \_\_\_\_\_.

8. DISPOSITIVE MOTIONS

- a. Any dispositive motions shall be filed by February 28, 2020.

- b. Are the parties requesting expedited briefing on dispositive motions?

\_\_\_\_\_ Yes \_\_\_\_\_ xxxx No

If yes, identify the proposed expedited schedule:

Opposition to be filed by \_\_\_\_\_; Reply brief to be filed by \_\_\_\_\_.

9. EXPERT TESTIMONY

- a. Primary expert reports must be produced by: Plaintiff: Sep. 2, 2019; Defendants: Oct. 25, 2019

b. Rebuttal expert reports must be produced by December 2, 2019.

10. SETTLEMENT

Plaintiff(s) will make a settlement demand by June 14, 2019. Defendant will respond by June 28, 2019. The parties agree to make a good faith effort to settle this case. The parties understand that this case will be referred to an attorney mediator, or to the Magistrate Judge, for a settlement conference.

The Court refers cases to settlement throughout the year. The parties request the following month and year: December 2019

In order for the conference to be meaningful, the parties agree to complete all discovery that may affect their ability to evaluate this case prior to the settlement conference. The parties understand that they will be expected to comply fully with the settlement conference orders which require, *inter alia*, that settlement demands and offers be exchanged prior to the conference and that principals of the parties attend the conference.

11. RULE 16 PRETRIAL CONFERENCE

Do the parties request a scheduling conference?

xxx Yes, the parties would like a conference with the Court prior to it issuing a scheduling order. The parties request that the conference take place xxxx in chambers        by telephone.

       No, a conference is not necessary; the Court may issue a scheduling order after considering this Report.

12. OTHER MATTERS

Indicate any other matters for the Court's consideration:

Defendants request a non-itemized quarterly statement of attorney's fees and expenses.

Signatures:

Attorney for Plaintiff(s):

/s/ Marcus Sidoti

Counsel for  
Plaintiff  
Bar #  
0077476

Attorney for Defendant(s):

/s/ Andrew N. Yosowitz

Counsel for Baker, Casto, City of Whitehall  
Bar #  
0075306

\_\_\_\_\_  
Counsel for \_\_\_\_\_  
Bar # \_\_\_\_\_

\_\_\_\_\_  
/s/ Michael Loughry  
Counsel for Danzey, City of Reynoldsburg  
Bar #  
0073656 \_\_\_\_\_

\_\_\_\_\_  
Counsel for \_\_\_\_\_  
Bar # \_\_\_\_\_

\_\_\_\_\_  
Counsel for \_\_\_\_\_  
Bar # \_\_\_\_\_